

**TOWN OF DAVIE
REGULAR MEETING
MARCH 17, 2004**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:31 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present from the Town were Mayor Truex, Vice-Mayor Starkey, and Councilmembers Crowley, Hubert, and Paul. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. INVOCATION - Reverend Mark Coleman

Reverend Mark Coleman gave the invocation.

4. CERTIFICATION OF RESULTS - March 9, 2004 Election

Town Clerk Muniz read the election results into the record.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to certify the results. In a voice vote, all voted in favor. (Motion carried 5-0)

5. OATH OF OFFICE - Pompano Beach Mayor John Rayson (Michael Crowley)

- Judge Geoffrey Cohen (Judy Paul)

- Judge David Krathen (Susan Starkey)

Mayor Rayson swore in Councilmember Crowley. Judge Cohen swore in Councilmember Paul. Judge Krathen swore in Councilmember Starkey.

6. SELECTION OF VICE-MAYOR

Councilmember Hubert made a motion, seconded by Councilmember Crowley, to nominate Councilmember Paul for Vice-Mayor. Mayor Truex made a motion, seconded by Vice-Mayor Starkey, to nominate Councilmember Crowley for Vice-Mayor. Mayor Truex closed the nominations.

In a roll call vote, the vote was as follows: Councilmember Hubert voted for Councilmember Paul; Councilmember Crowley voted for Councilmember Paul; Mayor Truex voted for Councilmember Paul; Vice-Mayor Starkey voted for Councilmember Crowley; Councilmember Paul voted for herself.

Mayor Truex recessed the meeting at 7:44 and resumed the meeting at 7:51 p.m.

Mayor Truex advised that petitioner was requesting that item 7.14 be tabled to May 5, 2004. Development Services Director Mark Kutney explained the tabling request.

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to table until May 5, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that staff was requesting that item 9.9 be tabled to April 7, 2004.

Mr. Willi explained the tabling request.

Councilmember Hubert made a motion to table.

Councilmember Starkey voiced her concern about current construction items that might come up for development which would not apply. She was concerned that if the ordinance was not passed in the current form and add items in the future, the Town would not get the minimum from the ordinance as it was proposed. Councilmember Starkey indicated that staff had prepared a good ordinance and suggested that it be approved, then add other items that had been suggested.

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Mayor Truex indicated that if the ordinance was approved, the changes might constitute a substantial change. Mr. Kutney advised that the title was broad enough to approve the ordinance on first reading, with changes being made for the second reading. Mr. Kiar agreed.

This item was approved on first reading later in the meeting.

Mayor Truex announced that item 7.16 needed to be added to the agenda.

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

7. APPROVAL OF CONSENT AGENDA

Minutes

- 7.1. December 17, 2003 - Special Executive Session
- 7.2. January 5, 2004 - Workshop Meeting
- 7.3. January 21, 2004 - Regular Meeting
- 7.4. March 3, 2004 - Special Executive Session

Resolutions

- R-2004-52 7.5. **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR GRIFFIN ROAD LANDSCAPE IMPROVEMENTS. (Weekley Asphalt Paving Co. - \$60,798.50)**
- R-2004-53 7.6. **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR RADIO MAINTENANCE FOR POLICE AND FIRE DEPARTMENT EQUIPMENT. (Control Communication, Inc.; \$12,051/year - Police, \$6,315/year - Fire)**
- 7.7. **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR DRY CLEANING SERVICES FOR POLICE AND FIRE DEPARTMENT UNIFORMS. (Professional Cleaners; \$52,000/year - Police, \$26,109.20/year Fire)**
- R-2004-54 7.8. **GRANT APPLICATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE APPLICATION FOR A \$106,000 GRANT FROM THE LAND AND WATER CONSERVATION FUND FOR THE DEVELOPMENT OF SW 58th AVENUE PARK; AND AUTHORIZING ACCEPTANCE AND EXECUTION OF THE GRANT, IF AWARDED (WITH \$106,000 MATCHING FUNDS).**
- R-2004-55 7.9. **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN LONG LAKE ESTATES AND THE TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.**
- R-2004-56 7.10. **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND BROWARD COUNTY, FOR ADMINISTRATION OF THE TOWN'S SINGLE-FAMILY HOUSING REHABILITATION PROGRAM; AND PROVIDING AN EFFECTIVE DATE. (\$16,600)**

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- 7.11. **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**
R-2004-57 **AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN PROJECT STABLE OF BROWARD COUNTY AND THE TOWN OF DAVIE. (waiver of fee; March 28, 2004)**
- 7.12. **RESTRICTIVE NOTE CHANGE - A RESOLUTION OF THE TOWN OF DAVIE,**
R-2004-58 **FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE PLAT KNOWN AS THE MAIN STREET PLAT; AND PROVIDING AN EFFECTIVE DATE. (DG 2-2-04, Main Street, 5501 South University Drive)**
- 7.13. **WAIVER - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, WAIVING THE**
R-2004-59 **ONE -YEAR TIME LIMIT FOR A VARIANCE DENIED PREVIOUSLY BY TOWN COUNCIL; AND PROVIDING AN EFFECTIVE DATE. (Exxon Mobil Fuel Marketing Company/Progressive Development Group, Inc., 2399 South University Drive)**

Site Plans

- 7.14. **PETITIONER REQUESTING A TABLING TO MAY 5, 2004**
SP 10-1-02, Rancho Allegre, 2801 SW 148 Avenue (A-1) (tabled from January 21, 2004)
Site Plan Committee recommended approval based on the planning report and 1) that homeowners association documents be provided to staff prior to the Town Council; 2) show the house and the drive on lot four if the house is to remain, if it is to be demolished, then indicate it as such; 3) that the developer will put in the drive coming off 148th Avenue which will be shared by lots one and two; 4) that on lot three, the driveway will be held back a minimum of 150 feet from the property line at 148th Avenue; 5) that irrigation will be provided for at the main entrance; 6) that at the dead end hammerhead, each 12-foot wide drive will extend 75 feet from the center line of road going north and south, making it a 150 foot long turn around; and 7) if the water and sewer becomes available within one year of the Town Council's approval, and if it is within one-quarter of a mile of this property, the developer will provide it to each site
- 7.15. SP 8-7-03, Stirling Triangle Professional Building, 6099 Stirling Road (B-2) *Site Plan Committee recommended approval based on the planning report and the following remaining items: 1) that the front, first-floor cantilevered canopy be changed to a continuous canopy at both ends and in the center; 2) that the eight, raised-sloped elements on each building [two on each side] be enlarged by three-feet in depth and a tile roof added to them; 3) re-evaluate first- and second-floor lobbies by elevators; 4) add a sidewalk at the southwest corner by the front of the building to connect the new walkway to the Stirling Road walkway; 5) check the dimensions of one parking space as specified during the discussion; 6) add banding around the windows similar to the "architectural build-outs;" and 7) add grills to the openings at the parking garage level to simulate open windows*

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- 7.16. A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, CANCELING THE TOWING FRANCHISE WITH BOB'S TOWING, INC. AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT WITH THE NEXT HIGHEST RANKED BIDDER.

Councilmember Starkey requested that items 7.3, 7.5, and 7.7 be removed from the Consent Agenda. Councilmember Crowley requested that item 7.7 be removed. Mayor Truex requested that items 7.2, 7.13, and 7.16 be removed. Mr. Kiar requested that item 7.10 be removed.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve the Consent Agenda without items 7.2, 7.3, 7.5, 7.7, 7.10, 7.13, and 7.16. In a voice vote, all voted in favor. (Motion carried 5-0)

8. DISCUSSION OF CONSENT AGENDA ITEMS

- 7.2 Mayor Truex requested to table item 7.2 to April 7, 2004.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to table until April 7, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

- 7.3 Councilmember Crowley made a motion, seconded by Councilmember Hubert, to table to April 7, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

7.5 Regarding the Griffin Road improvements, Councilmember Starkey asked if funds would be reimbursed from Florida Department of Transportation (FDOT) as Griffin Road was a State road. Public Works Assistant Director Dan Oyler advised of additional plans to improve the road. He added that the Town had not applied for grant money and indicated that the new segment would be funded in about 4 years. Mr. Oyler indicated that when the Town entered into the contract with the FDOT, Council took over the ownership and responsibility for the road.

Councilmember Starkey made a motion, seconded Vice-Mayor Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

7.7 Procurement Manager Herb Hyman explained the history of the bid and the problems that arose regarding specifications that were inadvertently omitted from the initial bid. Councilmember Crowley was under the impression that the item would be re-bid and he questioned the final bid awarded to Professional Cleaners. He was not in favor of granting the contract to anyone at the time.

Bill Siegel, representing Professional Cleaners, stated that his client was the lowest bidder and should be awarded the bid. He added that his client had changed the contract for the items that were omitted.

Jeffrey Sinowski, representing Pinnacle Dry Cleaning, asked that Council reject all bids and re-bid the service in the interest of fairness in the bid process.

Eduardo Citcioblu One Low Price Dry Cleaners, did not understand why his firm was not selected.

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to re-bid, based on what staff presented at the previous Council meeting. In a voice vote, all voted in favor. (Motion carried 5-0)

7.10 Mr. Kiar advised of a typing error for item 10.9, in the second sentence. He requested that the Town insert the word "not" after the word "are" to make the document legally binding.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve, with the correction. In a voice vote, all voted in favor. (Motion carried 5-0)

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7.13 Mayor Truex asked if any residents were against this request.

Mayor Truex made a motion, seconded by Vice-Mayor Paul, to approve.

Councilmember Crowley requested that the petitioner meet with the residents one more time as he wished to attend the meeting. Todd Pressman, representing the petitioner, agreed. He advised that at the direct requests of the neighbors, the number of pumps, the building size, and the height had been reduced; the landscape buffers had been increased; and illumination was being provided.

Vice-Mayor Paul asked if the variance would change. Mr. Pressman indicated the variance would be the same on paper, but the issue would be substantially different as the site had significant changes.

In a voice vote, all voted in favor. (Motion carried 5-0)

7.16 Mr. Hyman explained that the current franchise holder, Bob's Towing, was in breach of contract. He explained that Mr. Mucha, the owner of Bob's Towing, was the subject of a criminal investigation filed by the State of Florida.

Councilmember Crowley asked who the Town would use for towing. Mr. Hyman indicated the Town could use A & B Towing, which was the second place bidder.

Councilmember Hubert asked if the liability insurance was fraudulent. Mr. Hyman indicated that the entire Certificate of Insurance was fraudulent.

Mayor Truex asked why the owner was not contacted about tonight's Council meeting. Mr. Willi advised that the company was notified by telephone and certified mail and had failed to provide proof of insurance as of 5:00 p.m. the previous day. Mr. Kiar indicated that Mr. Mucha had left him a message the previous day. He advised that he had returned Mr. Mucha's call and was referred to the applicant's insurance agent, who had not yet called.

Mayor Truex asked if this item could be deferred until later in the meeting so the vendor could be contacted and for information to be garnered regarding his necessity to carry Workmen's Compensation. No objections were noted.

Later in the meeting, Mr. Hyman indicated that the applicant had not been able to attend the meeting. He advised that the applicant indicated that the insurance certificate he had provided was the wrong one and would provide the insurance paperwork. Mr. Hyman read an e-mail from Risk Manager Dan Lutzke advising that the Town cease all connections with Bob's Towing.

Councilmember Starkey stated that she was surprised with how this issue was presented to Council. Mr. Hyman indicated that Mr. Mucha was sent a certified letter indicating his franchise would be terminated if he did not provide a valid proof of insurance certificate by the deadline.

Councilmember Crowley asked Mr. Kiar for recommendations. Mr. Kiar advised that the Town could grant Mr. Mucha additional time, which would enable Mr. Hyman to speak to the Town's risk manager, and provide Bob's Towing with enough time to provide proof of insurance. He further advised that an emergency or special meeting could be called.

Vice-Mayor Paul requested to add this item to the workshop scheduled for March 22nd. Mr. Kiar advised scheduling a special meeting. Mayor Truex asked staff to stipulate that Mr. Mucha provide proof of insurance by 12:00 noon on March 19, 2004. Mayor Truex scheduled a special meeting to discuss this issue with Mr. Mucha for 5:45 p.m. on March 22, 2004.

No action was taken on the resolution.

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9. PUBLIC HEARING

Quasi Judicial Hearings

- 9.1. **MASTER SITE PLAN** - MSP 11-1-03, Travel Center - Jolmy, 4751 SW 30 Street (TS) (tabled from March 3, 2004) *Site Plan Committee recommended approval subject to the planning report and the following stipulations: 1) that the pedestrian path shown through the truck parking area be more direct getting back to the main headquarters building; 2) that the headquarters southern elevation needs to be corrected to match the plans; 3) on the floor plans, show a "North" arrow; 4) on sheet 4.5, the dry retention area shown in the Spur Road needs to be removed from the plans; 5) remove the note indicating "propane station"; 6) clarify the entry of the cars into the gas lanes so as to avoid cross-over; 7) at the main headquarters building, the car wash needs to be moved so that there would be at least a 40-foot exit area from the car wash; 8) the display boards shown must meet Code and if anything different is intended, a variance would be needed; 9) on the landscape plan, correct the truck parking and show it as paved (not as landscape sod); 10) correct the landscape legend and landscape schedule which do not match each other; 11) the landscaping in the pathway of the islands have to be moved or changed; 12) add a signage and striping plan[directional signs, stop signs, striping into the gas station clarifying lanes] before going to Town Council; 13) have renderings made prior to the Council presentation; 14) at the main entry, it is recommended that 20-foot clear trunk Royal Palms be installed; and 15) bring back the landscape plans after working with staff on the redesign*

Mr. Kiar turned this portion of the meeting over to special counsel, Michael Burke. Mr. Burke read the rules of evidence and swore in the witnesses.

Planning Supervisor Marcie Nolan summarized the history of project and the staff report. Mr. Kutney indicated that staff wished to bring up concerns about ingress and egress to the site. He further advised that the site plan application may be premature until some of the residents' concerns were resolved.

Mr. Burke opened the public hearing portion of the meeting

Bill Myers, the petitioner, explained the necessity for the project and the upgrades that were planned.

Jaime Plana, the project architect, gave a brief presentation on the project.

Councilmember Crowley spoke about access to the road and about the traffic pattern for the first phase. Mr. Plana indicated that traffic would enter on Burris Road and exit on SW 30 Street.

Steve Moody, representing the petitioner, spoke on the history of the annexation of the parcel and the OTTED agreement that was offered to the Town. He entered into the record a deed that was recorded in 1956 that appeared to indicate that SW 30 Street should have unlimited accessibility between Burris Road and the "tollhouse" leading into the Turnpike proper. Mr. Moody opined that the Town had promised to pave and improve the road. He indicated that half of the improvements required have been done. Mr. Moody spoke further on the history of the road and distributed copies of the deed to Council.

Sam Poole, representing Twin Lakes Travel Park, felt the consequences of approving the truck stop facility had not been fully considered. He was concerned about noise and traffic impact from trucks which would negatively affect the Twin Lakes Travel Park occupants. Mr. Poole advised that Twin Lakes had spent \$30,000 on a traffic analysis of the proposed facility to try to understand the impact.

Councilmember Hubert asked how many travel sites and how many permanent sites there were. Mr. Poole responded that there were 374 permanent sites and indicated that the property was a travel trailer site. Councilmember Hubert indicated that there were permanent mobile homes

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Dick Kingsborough, owner of Twin Lakes Travel Park, objected to the assertions made by Councilmember Hubert and stated that the park was a travel trailer park, not a mobile home park. He indicated that there was only one mobile home on the site and advised that the rest were travel trailers.

Kokwan Mah, transportation engineer from Gladding-Jackson, spoke on behalf of Twin Lakes Travel Park. He spoke about the intent of the study and gave an overview of the traffic impact analysis of the intersections at US-441 at Oakes, and Oakes at Burris Road, in relation to Phase 1 of the proposed project. He answered questions posed by Mr. Moody.

Mr. Poole felt that the fire station being built at Oakes Road would be negatively impacted by the traffic that the truck station would create. He voiced his objections about certain portions of the site plan and stated that the Twin Lakes Travel Park had been ignored on the site plan. Mr. Poole asked Council not to approve this project because the Town would need to acquire a portion of land to ensure the viability of the project. He indicated that if this was approved and the land was not acquired, then rights would be granted that would be in conflict with actual property ownership. On behalf of Twin Lakes Travel Park, Mr. Poole requested that Council defer action on the site plan until all the owners signed the application, and that Council examine the off-site impacts on the intersections and other businesses involved.

Mr. Burke swore in Fire Chief Don DiPetrillo who voiced his concerns about the location with regard to the fire station. He requested an opportunity to make recommendations to the owner prior to the building permit process.

Raj Shamunjin stated his qualifications in traffic engineering and answered questions posed by Mr. Moody and cross examination by Mr. Poole.

Kirby Cannon, 3055 Burris Road, indicated that he was a truck driver for 11 years, and knew that trucks carried explosives and corrosives. He voiced his concern that no discussion was held about the likelihood for hazardous events, and/or methods to resolve such potential problems.

Mr. Myers pleaded with Council to approve the site plan and spoke of the benefits the truck stop would bring to the Town.

Mr. Burke swore in Police Chief John George. Councilmember Starkey spoke of concerns she had raised with both Chief George and Chief DiPetrillo about safety. Chief George indicated that the issues he had with the project were not related to the site plan and spoke of his public safety concerns. Councilmember Starkey stated that while the project was presented as having a regional impact, the Town was actually shouldering much of the burden. She felt these issues had to be addressed specifically with a regional approach on revenue streams. Councilmember Starkey stated that she was not sure if this facility would generate enough revenue to accommodate any catastrophe. Chief George felt it would be a full-time assignment to keep a police presence in the area. He agreed that national security concerns should be addressed.

An unidentified man, the architect for the project, felt that there was a need for the facility and advised that it was being marketed as a safe environment for truckers and their cargo. He advised that the second phase of the project would provide for more safety oversight. The man asserted that the facility would be safe.

Vice-Mayor Paul spoke about her concerns regarding a landscape buffer. The unidentified man indicated the project would no longer be about the trailer park, so the buffer was no longer an issue.

Mr. Burke closed the public hearing and the quasi-judicial hearing.

Mayor Truex advised that he had spoken to Mr. Myers. Councilmember Hubert advised that she also had spoken to Mr. Myers. Councilmember Crowley advised he had spoken to Mr. Myers and his attorney. Councilmember Starkey advised that she had spoken to staff, Mr. Burke, Mr. and Mrs. Myers, members of Jolmy Enterprises, among others. Vice-Mayor Paul advised she had the same disclosures as Councilmember Starkey.

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Mayor Truex asked Mr. Moody what would happen if the spur road property issue was not worked out. Mr. Moody indicated that the site plan would have to be re-worked. He spoke of his last appearance before Council, when Councilmember Starkey had given him a copy of the letter from DMG, which was accompanied by graphs outlining the unlimited access documentation.

Vice-Mayor Paul asked if all the documents associated with the land had been complete packages. Mr. Moody responded in the affirmative.

Mayor Truex asked Mr. Burke for assistance on the road issue. Mr. Burke felt it would be difficult to approve the site plan without some conditions. He suggested that if Council were inclined to approve the plan, he advised "that the approval be conditional upon the applicant obtaining the agreement authorization of the then-owner of the property to construct the roadway described in the plan and/or failing that, that the applicant obtain final order from the court which would allow the type of unlimited access described in the plan."

Councilmember Hubert advised that the approval could be granted on the condition that the road be acquired by the applicant, who would agree to hold the Town harmless in the event of a lawsuit. Mayor Truex asked Mr. Moody if he would agree to this condition. Mr. Moody indicated his client would not be in favor of this.

Councilmember Crowley felt the location was excellent for a truck stop but agreed that there were ingress-egress issues which needed to be addressed. Councilmember Starkey felt that Council should move cautiously on this project, pointing out that staff had raised many valid concerns. She felt the facility needed to be safer.

Vice-Mayor Paul felt the location was good for the proposed facility. She asked Mr. Moody if he would be willing to accept the Town's condition based upon the applicant obtaining agreement with the property owner to build the roadway as it was in the plan, or upon a final judgment in court. Mr. Moody stated that if the Town began an eminent domain proceeding and acquired the road, it could give consent to Jolmy Enterprises to use the road.

Councilmember Hubert asked if Jolmy was offered the opportunity to use the road in exchange for rent. Sylvia Clement, Vice President of Jolmy Enterprises, advised that Jolmy had never been contacted by DMG.

Mayor Truex advised that he would be willing to approve the project subject to the site plan, subject to acquisition of the spur road, and subject to the applicant addressing the concerns of the fire and police chiefs. Mr. Kutney advised that based upon the circumstances related to the site plan, Council would have to see it again. He suggested that Council meet with the attorneys and try to outline a condition that would give Jolmy Enterprises additional time.

Councilmember Starkey made a motion to table. The motion died due to the lack of a second.

Mr. Kutney indicated that if the Town was successful in an eminent domain proceeding, Jolmy would probably amend their site plan and advised that the site plan would need to be reviewed again by Council.

Councilmember Hubert made a motion, seconded by Councilmember Crowley, to approve, subject to conditions as discussed. Mr. Burke read the conditions as follows: "approval would be conditional upon the applicant obtaining authorization or approval from the then-owner of the property commonly referred to as "the State Road 84 spur road" to construct the egress roadway described in the site plan, which is referred to as Bald Eagle Roadway, or failing that, a final judgment entered by a court of competent jurisdiction following the resolution of all appeals which allow the construction of the egress roadway described in the site plan;" and subject to the Site Plan Committee's recommendations; and subject to addressing the concerns of the police and fire chiefs.

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In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - no. (Motion carried 4-1)

Mayor Truex recessed the meeting at 10:48 p.m. and the meeting reconvened at 10:55 p.m.

- 9.2. **VARIANCE** - V 1-1-04, Comegys, 3910 SW 54 Avenue (R-3) (to reduce the north side setback for the storage building from 15 feet to 8 feet) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses.

Planning and Zoning Manager Fernando Leiva summarized the staff report.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Ms. Comegys, the petitioner, thanked Council for its consideration.

Mayor Truex asked Council for disclosures or comments. None were made.

Councilmember Hubert made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 9.3. **VARIANCE** - V 1-3-04, Woodlief, 13800 SW 37 Court (R-1) (to reduce the minimum lot area from 35,000 square feet to 29,850 square feet) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Kutney summarized the variance request.

David Woodlief, the petitioner, stated that he agreed with the report.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Vice-Mayor Paul stated that she had spoken with Mr. and Mrs. Woodlief and staff. She asked if the approval would be granted in perpetuity with the land. Mr. Kutney responded in the affirmative.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Ordinances - Second and Final Reading

- 2004-8 9.4. **VACATION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING PETITION VA 12-2-03, VACATING A PORTION OF THE RIGHT-OF-WAY FOR OAKES ROAD, LYING WITHIN THE NORTH 35-FEET OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 50 SOUTH, RANGE 41; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 12-2-03, Town of Davie Fire/Rescue Station, 4491 Oakes Road) *Planning and Zoning Board recommended approval based upon the stipulation that the east property line be a non-vehicular access line to continue to the south the property line of the vacated portion {Approved on First Reading March 3, 2004 - all voted in favor}*

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing. As no one spoke, Mayor Truex closed the public hearing.

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Vice-Mayor Paul made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 2004-9 9.5. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-3-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM-M-3, INTENSE MANUFACTURING AND INDUSTRIAL DISTRICT (COUNTY) AND B-3, INTENSE COMMERCIAL BUSINESS DISTRICT (COUNTY) TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN'S ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-3-03, Town of Davie Fire/Rescue Station, 4491 Oakes Road) *Planning and Zoning Board recommended approval {Approved on First Reading March 3, 2004 - all voted in favor}***

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Starkey made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Resolution

- R-2004-60 9.6. **WAIVER - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A WAIVER TO THE WIRELESS COMMUNICATIONS FACILITIES' LANDSCAPING REQUIREMENTS TO ALLOW FOR THE PROVISION OF ALTERNATIVE LANDSCAPING FOR A CO-LOCATION ON AN EXISTING ANTENNA SUPPORT STRUCTURE.**

Town Clerk Muniz read the resolution by title. Debbie Ross summarized the waiver request.

Mayor Truex opened the public hearing portion of the meeting.

Peter Silver, of Mac Tech Engineering in Miami Lakes, advised that his company would provide landscaping upon approval.

Mayor Truex closed the public hearing.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Ordinances - First Reading (Second and Final Reading to be held at a later date)

- 9.7. **LAND USE PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS APPLICATION LA 03-07, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "RESIDENTIAL 1 DU/AC" TO "EMPLOYMENT CENTER - LOW"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (tabled from December 3, 2003) (LA 03-07, Industrial Developments International, Inc/Wilson Road Company, Inc., Herzig and North, 5800 SW 59 Avenue) *Local Planning Agency recommended denial {requires supermajority vote}***

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Earlier in the evening, Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on this item at a later date.

Mr. Kiar read the rules of evidence and swore in the witnesses. Planning and Zoning Manager Fernando Leiva read the staff report.

Councilmember Crowley spoke about the 21,000 trips and asked if other roads in the area besides Griffin Road could handle the traffic. Mr. Leiva indicated that Griffin Road was a county road and could handle the traffic.

Scott Helms, representing the petitioner, indicated that the retail component had been removed. He spoke of the merits of the site and showed Council pictures of the northern boundary of the property.

Bonnie Miskel, also representing the petitioner, explained why the Employment Center-Low category was being sought. She reviewed the land use of different areas of the property and indicated that the County found the employment center to be compatible, due to less intense activity.

Walter Bertschinger, transportation planner with Miller Legg & Associates, spoke about the traffic study of 58th Avenue commissioned by the petitioner. Mr. Bertschinger indicated that the study revealed that there was 50% cut-through traffic during working hours. He spoke of traffic calming features proposed for the area, including a roundabout and guardrails. Mr. Helms spoke of lifestyle improvements planned, including a walking trail, a horse trail, and buffers.

Mike Nichols, biologist of Michael J. Nichols and Associates, spoke of the biological characteristics and functions of wetlands, and the proposed wetland park. Mr. Helms summarized other improvements planned for the development.

Jill Cohen, of Miller Legg & Associates, spoke of residents' concerns such as noise, employee hours, and lighting. She advised that IDI would provide a buffer from the Turnpike to the adjacent residences. Ms. Cohen asked what was being proposed to mitigate those concerns. Mr. Helms described features of the project and provided aerial photos.

Chris Wallace spoke about the positive impacts the business park would have on the Town's tax base. He stated that the proposed park would initially provide an estimated \$127 million to the Town's property tax base that would grow in 10 years to an estimated \$274 million. Mr. Wallace displayed a chart which indicated that at 10 years, approximately \$1,500,000 could be generated in tax revenue from the project.

Mr. Helms indicated that approximately 2,000 jobs would be created with an average salary of \$40,000. He read a letter from a Weston resident commending IDI for the quality business complex it had developed for the city of Weston.

Councilmember Hubert asked Mr. Helms to explain the tax-free zone issue. Mr. Helms explained that if the property was ever designated as a tax-free zone, it would be tax free for sales tax, and not for ad valorem taxes.

Barry Chodnick spoke in opposition to the project and felt it was not in character with the vision of the Town.

Brent Adrian, 5600 SW 48 Street, spoke against the project and felt that traffic would be a problem.

Karen Sue, representing Andrx Corporation, stated that Andrx supported IDI and the proposed development.

Vince Orrico, 4630 SW 54 Terrace, opposed the project. He cited several traffic concerns that the site would have and increased problems based on the increased number of employees traveling to the site.

Mark Hamel, 6020 SW 39 Court, supported the proposed development as he felt it would provide employment and higher income for residents.

Michael Duruytter, 5463 SW 60 Avenue, spoke in opposition to the project and felt that the residents' right to live in a rural area would be compromised.

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Betty O'Connor, 5280 SW 48 Street, was opposed to the project being placed in a residential area.

Nicole Coletti, 5291 SW 48 Street, spoke in opposition to the project, citing noise and pollution concerns and potential traffic concerns along 48th Street.

Silvio Case, 5600 SW 58 Court, was opposed to the project due to traffic concerns.

Bob Amchir, a resident of 61 Avenue, spoke in opposition to the project, citing traffic concerns.

Rebecca Miele, 5251 SW 49 Street, was opposed to the project and felt that Council was lied to about the companies and the jobs that would be created. She spoke about the rural lifestyle overlay and asked Council to preserve the area.

Mim Grossman, 4710 SW 57 Avenue, read a statement in opposition to the project.

Debra Brunstrom, 5651 SW 57 Street, opposed the project and felt it would negatively affect the character of the neighborhood.

Genia Simmons, 5357 SW 48 Street, was opposed to the project and indicated that there were endangered species living in the lake.

Dan Cunningham, 5347 SW 48 Street, opposed the project because of its lengthy construction and the destruction of natural resources.

Jacque Daniels, 5621 SW 54 Court, was opposed to the project because of traffic concerns.

Tony Robles, 5337 Orange Drive, supported the project. He felt IDI had addressed residents' concerns adequately and believed the development would not diminish the character of the area, but rather would increase prosperity.

Jack Flaherty, 5391 SW 58 Avenue, was opposed to the project.

Marie Kaplan, 5721 SW 54 Court, clarified that the meeting Mr. Leiva referred to was not initially set up with IDI, but rather was set up with Councilmember Hubert. She opposed the project due to traffic concerns.

Karen Stenzel-Nowicki spoke of ongoing drainage concerns in the southeast areas of the Town. She spoke in opposition to the project for environmental reasons.

Dr. Irv Rosenbaum, Vice-Chair of the Davie Economic Development Council (EDC), indicated that an economic development was designated as a necessity for the Town. He felt that Davie needed a quality corporate park to provide economic stimulus.

Rodolfo Robles, 1721 NE 16 Terrace, was in favor of the project and asked Council to approve it.

Paul Humann was opposed to the project.

Fred Shank, 5401 SW 49 Street, was opposed to the project and felt the Town was being deceived about the project.

Richard Abraham, a member of the Town's EDC, spoke in support of the project and cited its positive impacts to the tax base.

Michael Gati, 4770 SW 57 Avenue, was opposed to the project due to traffic concerns.

Vince Green, 5530 SW 55 Street, was opposed to the project.

Linda Lathan, 5231 SW 57 Street, was concerned where all the employees would go to eat lunch.

Carol Sadler, 4900 SW 58 Avenue, was opposed to the project.

Terry Campbell, 4600 54 Terrace, was opposed to the project due to traffic concerns.

Doris Monier, 5305 SW 48 Street, was opposed to the project.

Pam Rose, 4810 SW 54 Terrace, was opposed to the project.

Katherine Taylor-Holmes, 5700 SW 54 Street, spoke about the tour she took to the Weston Park of Commerce and indicated it did little to dissuade her fears about the project.

Valerie Losio, 5740 SW 54 Street, read a statement from Phillip Busey, in opposition to the project, due to water retention concerns. She spoke in opposition to the project.

Robert Myers, 5740 SW 56 Street, was opposed to the project.

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Lynn DiLorenzo, a member of the Town's EDC, supported the project and spoke of the increased tax base potential from this project.

Norman McKinnen, 5357 SW 47 Street, was opposed to the project.

Marie Lamb was opposed to the project and spoke in favor of maintaining a rural lifestyle.

Charles Kelly, 5710 SW 55 Street, was opposed to the project.

David Pollock, 721 SW 47 Street, was opposed to the project.

David Oakes, 4001 SW 108 Terrace, was in favor of smart economic growth for the Town and felt that a compromise was necessary.

Judy Price, 5201 SW 48 Street, was opposed to the project.

Mr. Helms refuted some of the assertions made by some residents and spoke of improvements for the property.

Ms. Miskel addressed some comments made by Ms. Stenzel-Nowicki and spoke of ways in which the project complied with the goals set forth by the Town.

Mayor Truex closed the public hearing.

Mayor Truex asked about the traffic pattern as outlined in one of the renderings. Mr. Leiva indicated which roads would have to be opened.

Vice-Mayor Paul spoke about the compatibility issue and about tax revenues mentioned by Mr. Wallace. She disagreed with his figures and felt that residential usage would generate a similar amount of taxes as this project. Vice-Mayor Paul was also concerned about the three employment shifts mentioned. She voiced her opposition to the project.

Mayor Truex spoke in support of the project as he felt the buffers were adequate for residents to the south and east.

Councilmember Crowley had concerns about access in and out of the project. He recognized the need for commercial development but felt the location was inappropriate. Councilmember Crowley voiced his opposition to the project.

Councilmember Hubert recognized the need for commercial growth, but had concerns about access. She spoke of traffic concerns and felt that the developer should re-draft the proposal.

Councilmember Starkey spoke against residents' hostile behavior during the election campaign and about the petitioner's well intentioned efforts to bring economic development to the Town. She felt it was a shame that more options had not been explored. Councilmember Starkey spoke about ugly aspects of parts of the surrounding area and stated that no improvements could be established for the community if residents were uncooperative with the developers.

Vice-Mayor Paul recommended that a discussion on the master plan be held at the next Council meeting. Mayor Truex agreed.

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to deny. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion carried 3-2)

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- 9.8. **TEXT AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS APPLICATION LA(TXT) 03-08A, AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE ELEMENT TO DELETE THE "EMPLOYMENT CENTER" LAND USE CATEGORY AND TO ESTABLISH EMPLOYMENT CENTER LAND USES TO INCLUDE AN "EMPLOYMENT CENTER-LOW" LAND USE CATEGORY AND AN "EMPLOYMENT CENTER-HIGH" LAND USE CATEGORY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from December 3, 2003) *Local Planning Agency recommended approval subject to the following uses being deleted from Employment Center-Low: fabrication and assembly; hotels, motels, and similar lodging; and community facilities {requires supermajority vote}*

Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on this ordinance at a later date.

Mayor Truex opened the public hearing. As no one spoke, Mayor Truex closed the public hearing.

Mr. Kutney explained why this ordinance was warranted. Councilmember Starkey felt this employment center designation provided the Town with an option that added flexibility with less intense density.

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve. Councilmember Starkey withdrew her motion.

After further discussion, Councilmember Starkey made a motion, seconded by Mayor Truex, to table this item to the next Council meeting [April 7, 2004]. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Ordinances - First Reading (Second and Final Reading to be held on April 7, 2004)

- 9.9. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING PETITION ZB (TXT) 2-1-04 CONSTRUCTION NOISE TO AMEND CHAPTER 15 OF THE TOWN OF DAVIE CODE OF ORDINANCES BY MODIFYING THE REGULATIONS THAT ADDRESS CONSTRUCTION NOISE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Later in the meeting, Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion carried 4-1)

- 9.10. **CAPITAL IMPROVEMENT PROGRAM AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CAPITAL IMPROVEMENT PROGRAM FOR THE TOWN OF DAVIE FOR THE FISCAL YEAR 2004-2008. (\$110,000)

Town Clerk Muniz read the resolution by title. Mayor Truex announced a public hearing would be held on this ordinance on April 7, 2004.

Mayor Truex opened the public hearing portion of the meeting.

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Cheryl Dolin, project manager for Capital Projects, summarized the request.

Councilmember Crowley asked about the louver wall and stated that he preferred to see solid pre-cast wall for better buffering. Ms. Dolin indicated that she would review the plan to see if it would change the linear footage and the cost. Mr. Willi indicated that if the cost would change, the item would be returned to Council.

Mr. Kiar suggested that the verbiage in Section 2 "by resolution" be changed to "by ordinance."

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

10. APPOINTMENTS

10.1. Agricultural Advisory Board (one exclusive appointment - Councilmember Starkey; term expires April 2004) (insofar as possible, member shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

10.2. Budget Advisory Committee (members shall have experience in financial related occupation or similar skills) (one exclusive appointment - Councilmember Crowley; term expires April 2004)

No appointment was made.

10.3. Child Safety Board (one exclusive appointment - Councilmember Starkey and Mayor Truex; terms expire April 2004) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

10.4. Open Space Advisory Committee Agency (one exclusive appointment - Councilmembers Crowley and Starkey; terms expire April 2004)

No appointments were made.

10.5. School Advisory Board (one exclusive appointment Councilmember Paul; term expires April 2004) (insofar as possible, members are to have experience in educational matters)

Vice-Mayor Paul appointed Alex Arriaza.

10.6. Senior Citizen Advisory Board (two exclusive appointments - Mayor Truex and one-exclusive appointment - Councilmember Paul; terms expire April 2004) (members shall be a minimum 60 years of age)

No appointments were made.

11. OLD BUSINESS

There was no old business to be discussed.

12. NEW BUSINESS

There was no new business to be discussed.

13. MAYOR/COUNCILMEMBER'S COMMENTS

No comments were provided.

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14. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

15. TOWN ATTORNEY'S COMMENTS

No comments were provided.

16. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 3:40 a.m.

Approved _____

Mayor/Councilmember

Town Clerk